



Memorandum

TO: RULES COMMITTEE

FROM: Betsy Shotwell

SUBJECT: SEE BELOW

DATE: February 19, 2004

Approved:  Date: Feb. 20, 2004

SUBJECT: REPORT ON PROPOSED STATE BILLS PERTAINING TO MEGAN'S LAW

RECOMMENDATION

That the Rules Committee recommend to the Council:

- 1 Support AB 488 (Parra) which would provide that public dissemination of sex offender information pursuant to Megan's Law shall occur through an Internet Web site operated by the Department of Justice (DOJ), as specified.
- 2 Support, with amendments, AB 1224 (Diaz), which states legislative intent to improve the sex offender database upon a Budget Act appropriation.
3. Support SB 650 (Battin), which would repeal the January 1, 2007, sunset date on Megan's Law.

BACKGROUND

Currently there are several Megan's Law and Sex Offender Registration Bills pending before the Legislature in Sacramento, including: AB 488 (Parra), AB 1224 (Diaz), and SB 650 (Battin). The Rules Committee on January 28, 2004, requested that staff review AB 488 and other related bills and return to Rules with recommendations.

AB 488 Relating to Sex Offenders:

ANALYSIS

As currently written, AB 488 would eliminate the "900" telephone number and CD-ROM/Intranet programs and instead require the Department of Justice (DOJ), until January 1, 2010, to post specified information about listed offenders on the Internet and update the information on an ongoing basis.

AB 488 would have DOJ place on the Internet specified information (name, date of birth, physical description, gender, race, specific crimes resulting in registration) categorized by

Re: Report on Proposed State Bills Pertaining to Megan's Law

Page 2

county, community of residence and ZIP Code about high-risk and serious sex offenders. Currently, this information is only available to the public on dedicated computer terminals maintained by law enforcement agencies that have access to the DOJ sex registrant database through a special CD-ROM or Intranet application. The bill would also authorize DOJ to place on the Internet the home addresses, including ZIP Code, for high-risk and serious high-risk sex offenders. Serious sex offenders could make a motion in court at sentencing to have their residence address deleted upon a showing of clear and convincing evidence that the listing of the address information for the offender is unnecessary for public safety. Additionally, the bill would authorize DOJ to place on the Internet any other information that it deems relevant and feasible, with specified exceptions.

Assembly Bill 488's provisions differ from San Jose Police Department's (SJPD) High Risk Sex Offender Mapping web site in several respects. Currently, SJPD's web site only includes information (name, date of birth, physical description, gender, race, specific crimes resulting in registration, block address if available, and type of victim targeted by the offender) on high-risk sex offenders who reside in the City. Second, in addition to the information that the State provides via CD-ROM/Intranet application, the Department's web site also gives a one sentence description of the type of victim the registrant usually targets; information that the State doesn't currently provide. This bill would authorize DOJ to add that information if it wished. Third, the Police Department's web site only provides the block address, not the exact residential address of high-risk sex offenders.

This bill would also require each visitor to the web site to enter his or her name and to state that he or she is not a registered sex offender. This is similar to the registration requirement in existing law for the CD-ROM/Intranet viewers. Existing law requires agencies disseminating information from the CD-ROM or other electronic media to maintain a list of those who have viewed the information for at least five years. This bill would continue that requirement and would require electronic acknowledgments required for users of the web site to be maintained by DOJ for two years.

Status: AB 488 passed the Assembly and has been referred to Senate Public Safety Committee pending a hearing date.

Recommended City Position: Staff recommends support for AB 488 which would make the Megan's Law database more easily accessible to the public.

AB 1224 Relating to Sex Offender Registration:

ANALYSIS

Current California law requires the Department of Justice (DOJ) to provide either a CD-ROM or other electronic medium containing certain specific information regarding sex offenders to local law enforcement agencies. These agencies are then required to make this information available for public viewing. This information is currently made available to the public in San Jose only at specified locations including the San Jose Police Department.

Assembly Bill 1224, as currently drafted, expresses a legislative intent, contingent upon an appropriation in the 2004-2005 Budget Act, to provide funding to: (1). DOJ to create and

maintain a Statewide database of registered sex offenders about whom DOJ compiles information pursuant to Section 290.4 of the Penal Code that permits internet access by law enforcement personnel and the general public, as authorized by statute; and (2). to provide matching grants to local law enforcement to implement the current registration and public notification requirements of sections 290, 290.01 and 290.4 of the Penal Code.

Under AB 1224 there are three obligations proposed to qualify for a matching grant:

An annual in-person check of the location of each registered sex offender in the local jurisdiction

- An annual report of the registered sex offenders in the local jurisdiction
- Public access to the statewide database for registered sex offenders.

Localities seeking grants would have to agree to perform an annual in-person verification of the location of *all* sex offenders in the jurisdiction, not just high-risk or serious sex offenders. Current law does not require localities to perform this task. of. The San Jose Police Department does in-person checks for those individuals who appear on the DOJ's database, but who have failed to register locally. A requirement for an annual in-person check would require officers to contact approximately 2,227 offenders currently residing in San Jose.

Second, the proposed bill would require localities to create an annual report on all registered sex offenders in the jurisdiction. Current law does not require localities to create such an annual report.

Third, the bill is not specific regarding the requirement that funds be granted under a requirement of "public access to the statewide database for registered sex offenders." Under Section 290.4 Penal Code, the "statewide database for registered sex offenders" refers to the intranet and 900 telephone number access allowed under current state law. As currently written, AB 1224 does not specifically allow for grant funding for the administration of the SJPD's community notification functions pursuant to Penal Code Section 290.45 which includes the internet site on high-risk offenders.

Status: AB 1224 passed the Assembly and is currently in the Senate Rules Committee awaiting assignment to committee.

Recommended City Position: Staff recommends that AB 1224 be supported if amended to include the following amendments:

Eliminate the requirement for a local match to qualify for the local law enforcement grant program proposed to be established under the bill.

Specify that the grant program would provide grant funding for the administration of the program established by SJPD under Sections 290, 290.01, 290.4 and 290.45 of the Penal Code.

Eliminate the proposed requirement for in-person check of location of each registered sex offender for a local jurisdiction to qualify for grant funding. Maintain local discretion to determine the extent of in-person checks performed by local law enforcement in conformity with current requirements under Penal Code Section 290.45.

Participating agencies in the program shall provide an annual report to DOJ identifying the activities taken with the grant funds.

SB 650 Relating to Sex Offenders:

ANALYSIS:

Current California law contains a provision that would repeal existing laws regarding the compilation and distribution of information related to sex offenders effective January 1, 2007. This law was originally set to expire January 1, 2004 but was extended to January 1, 2007, with passage of AB 1313 (2003 Statutes) which was supported by the City of San Jose.

Senate Bill 650 would eliminate the current expiration date for the existing method of disseminating information to the public regarding sex offenders. It would not change the existing Megan's law. However, it would extend the provisions allowing for current disclosure, as discussed with reference to AB 488, above, and continue the provision of state law authorizing community notifications, which are the basis for the Police Department's web site on high-risk sex offenders. SB 650 would also extend without change the existing sex offender registration and Megan's Law information disclosure provisions pertaining to sex offenders in California.

Status: SB 650 passed the Senate and has been assigned to the Assembly Public Safety Committee.

Recommended City Position: Staff recommends support for SB 650

PUBLIC OUTREACH

The San Jose Police Department continues to work with the community regarding Megan's Law. Since its' establishment, the SJPD High Risk Mapping web site has had approximately 17,000 viewers. This compares to the 360 citizens who came to one of the Department's community centers in 2003 to view the Megan's Law database. The information on the Department's web site allows parents to make informed decisions about the potential threat to their children based on the proximity to the residence of the registered sex offender.

COORDINATION

This memo was coordinated with the Police Department, the City Attorney's Office, and the City's Legislative Representative in Sacramento.



BETSY SHOTWELL

Director, Intergovernmental Relations